Testimony of Dan McCabe, Bear Hunter

House Financial Services Committee

Capital Markets, Insurance and Government Sponsored Enterprises Subcommittee

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Good Afternoon. Thank you. Mr. Chairman, for the opportunity to testify in front of the subcommittee.

A little bit of background first for the committee. I am the CEO of Bear Hunter Structured Products LLC. We are liquidity providers in derivative products, such as options, futures and exchange traded funds.

Bear Hunter is a wholly-owned subsidiary of Bear Wagner, which is one of the five major specialist firms on Wall Street. We represent more than 350 listed companies, including such household names as Pepsi, Aetna, Alcoa, Xerox and Kimberly-Clark, to name a few. Bear Wagner is a member of the NYSE, Amex, CME, ISE, CBOT and CBOE and actively trades in all venues.

Mr. Chairman, I am worried about the impact of the proposed changes, not only on the individual investor, but also our listed companies and the New

York Stock Exchange itself. I am deeply concerned because the thrust of these new regulations is focused on speed only; and speed will ferment both price and temporal volatility in the market, scaring off individual investors, destroying confidence and, over time, driving down the market cap of our clients. Since the introduction of decimal pricing, the markets have already experienced 126 percent growth in program trading, to the detriment of the individual investor.

Allow me to elaborate. Excessive volatility serves no one but professional investors. Over the last two years, 39 NASDAQ listed companies have chosen to move to the New York Stock Exchange. They have, on average, experienced a 50 percent reduction in inter-day volatility. They made this choice to facilitate the raising of capital. After five years of market softness and financial scandals, is more volatility really going to help lure the individual investor back into the market or are we creating a market dominated by professional program traders?

What is driving the focus on speed? Certainly, not the majority of investors in this country. When AARP recently surveyed nearly 2,000 of its members, two-thirds of them said price is the top priority when engaging in a market transaction. The second consideration was the brokerage fees. Speed barely registered in the survey.

Chris Hansen, of the AARP, representing that organization's 35 million members, said, "The SEC needs to proceed carefully in proposing changes that could undermine the ability of individual investors to get the best price for the lowest transaction cost."

I couldn't agree more.

Some of our competitors say everything should be done in nanoseconds, same second executions should be the driving force in markets. I don't think we want the NYSE looking like an ECN, where stocks flicker excessively while attempting to discover price, nor do I understand why the markets with excessive volatility will be rewarded through REG NMS.

In addition, I think the logical outcome of these proposed rules will be dramatic fragmentation and internalization, where sophisticated investors opt out and the common person is left behind. The solution is not to develop a bifurcated market for insiders and small investors, but to instead link all the markets together. Define a reasonable time frame, say five or six seconds, where orders must be executed or else face a penalty. Mandate that all parties compete on price.

Today, many people have the vision of the NYSE from a bygone era, with brokers wandering the floor, hand writing orders on tiny scraps of paper. Today, over 85 percent of the time, orders are executed in less than ten seconds. Specialists provide additional liquidity roughly 15 percent of the time to smooth out short-term volatility, which helps stabilize the market for both investors and listing companies.

I think the real motive behind much of this debate has nothing to do with the individual consumer, but rather an attempt by failing business models to gain an advantage through regulations.

Here's a recent quote from Steve Pearlstein of the Washington Post, "The fact that these parties are trying to divert more trading away from the exchange raises suspicions that their lobbying campaign may have less to do with protecting the interests of the investing public than with gaining competitive advantage or taking over the market making function themselves."

Again, let's look at the NASDAQ. Five years ago, the exchange handled more than 90 percent of the market for its own stocks. Today, it is less than 20 percent. Currently, the NASDAQ and all of its electronic competitors go at the same speed. Why have they lost market share? Simply because of practices like payment for order-flow or the sharing of tape revenue. Those practices must be disbanded for the mere health of the market.

Individual investors buy and sell based on price. When millions of investors get home tonight and check on their 401(k) programs, they will carefully watch the prices of their stocks and mutual funds. I can't believe a single one of them will wonder whether their shares traded in five seconds or eight. Moreover, most will have no knowledge of which exchange traded their security or under what rules they were traded.

Can the NYSE move faster? Yes, and it should. But price and transparency are equally important principles this committee and the SEC must not abandon.

Thank you for your time and consideration.